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COMMERCE COMMISSION

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CHIEF CLERK'S OFFICE

VIRGINIA W. DIEHL

Complainant,

Vs.

THE PEOPLES GAS LIGHT AND
COKE COMPANY

Respondent,

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No. 01-0453

APPLICATION FOR REHEARING

The request for Rehearing is submitted by Virginia W. Diehl, Complainant herein, by and through her husband, Sulaiman Mansur Asim, in support of Virginia Diehl's request for Rehearing on the Administrative Law Judge's (ALJ) Order in the above-captioned matter pursuant to 83 Ill. Adm. Code 200.880.

Now comes Virginia W. Diehl through her husband Sulaiman Mansur Asim with this Application for Rehearing in the docketed case of 01-0453 Diehl vs Peoples Energy. The reason for this request is that there is additional information that needs to be heard in this case and some information of which the attorney that worked on this case for complainant would not submit. Moreover, there is some information that could not be submitted because some events (the act of fraud or attempted fraud) happened after matters were heard. Complainant has tried to submit this and other information in the form of an amendment to the court and it was not excepted and has also tried to submit

the information in the form of Brief on Exceptions. The effort of the Brief on Exceptions was not stricken but the documents attached were not considered. The ALJ in this case does not state as to why the documents were not considered directly, but it seems that the reason was that the verification was not attached. So, there have been attempts to have these issues heard but complainant could never get to first base, so to speak.

Complainant believes that there was more than enough information contained in the court file to give victory for complainant. The Brief should have been taken into consideration respondent never challenged the Brief on the grounds of the verification was not attached and now the verification is with this Rehearing request.

With this Application for Rehearing, it will not be a model of legal draftsmanship and Mr. Asim do state that he is not close to being a neophyte when it come to law.

However, this is not what is needed in this case for the facts are clear and strong in the favor of the complainant..

The Order (NOTE THAT A COPY IS ATTACHED FOR THERE ARE TWO DIFFERENT COPIES OF THE ORDERS THAT IS PAGED DIFFERENTLY EXHIBIT

1). rendered by the ALJ goes beyond the scope, is arbitrary and is does not follow the ground rule he set at the start of the trial. The Order by the ALJ takes into consideration a "test" or experiment in which is not approved by the ICC. It was determined and agreed by all the that Peoples Energy (respondent) had the burden of proof in this case tr. 67-69. Three points were to have been proven by respondent: 1) . That there was a tap on the meter, 2) . That the complainant benefited from set tap and 3). That the billing is reasonable. Since we have a clash of swords in the testimony in

the at respondent states the there was a tap and the complainant states there was no tap on the gas meter at the time she has lived at the address in question, we have to look within the evidence as to who is telling the truth and who is the not .

The ALJ takes into consideration a pseudoscientific test that was “alleged” to have been done by Mr. Ulanday the pseudoscientist. Mr. Ulanday can not tell the basic truth in the matter for if he could he would have stated that he did not oversee, set up, nor perform the experiment as claimed by respondent (see Brief on Exceptions of respondent page 2). The ALJ takes this statement as fact in his Order pages 10-12. In respondent’s own document exhibit #2 in letter to attorney Kimberly Anderson, it shows that Mr. Ulanday did not do any of the aforementioned duties. This alone reduces all creditability of this witness. If Mr. Ulanday can not tell the simple truth about who did the test the result of a complicated test in a controlled setting can not be trusted. Moreover, this process “the test” has not been approved by the ICC as to a system that is better or as good as the system set forward in the ICC guidelines. Section 280.105(b) states that the domestic use and/ or the degree day analysis should be used. Respondent did the degree day analysis (page 2 of Order) and when it was asked was there another way of calculating the amount owed in the alleged case of tampering the ALJ wanted to know of any such system Tr. 161- 163. At this point the “test” was out of the question. The even goes on the state that respondent must “take responsibility” their numbers (degree day analysis) Tr. 170. The ALJ is making this move that I unprecedented and even if a case could be cited, to show how others were wrong is no defense when the guidelines set are controlling. The ALJ felt that the calculation were impeached Tr. 149-151.

WAS A TAP FOUND ON COMPLAINANT'S METER?

Mr. Alday who held himself out to be a field supervisor, and a number 8 man for respondent. The ALJ states in the Order page 4 that "Our experience" determine that a field service supervisor encountered tampering. This is not what Mr. Alday said of himself, he states that he did not have such experience Tr. 78. However, Mr. Alday commits perjury by saying later that he did have such experience Tr.100. which statement can we believe by Mr. Alday. In the case cited by respondent with their Brief On Exceptions case number 88-0169, it shows that a person holding the same title or similar as Mr. Alday that did not make the determination that there was a tap on the gas meter (see page 2 of cited case). Mr. Reynolds in this case was an "investigator" from the RPU Department. This RPU Department was still apart of the company during this case Tr.102. Mr Alday states that complainant lived in a "mansion-type" house and the respondent's billing states that it was a small residence exhibit 3. Mr. Alday does not know the difference between a furnace and a boiler, first complainant had a furnace Tr.190 and it was boiler Tr. 191. Alday states that he took only one picture of the meter Tr.83 and that he did not trace the alleged tap to items that were to be serviced Tr.191, 193-194.

Alday states that the alleged pipe was rusty Tr.81 & 195-196 and respondent only give a photocopy of the picture to ALJ and complainant Tr. 75. Photocopies do not show rust very well. Exhibit# 3 is a picture of meter as left by Mr. Alday, it can be seen that the spread bar and other pipes and connections are rusty. This is a very important facct for there was a main change that happened on September 18 and 19, 1992 . According to

Mr. Alday's states the alleged pipe was rusty Tr.81 and his reports states the the inlet pipe from the main was not, this shows that the workers that installed the inlet pipes in 1992 placed all the old pipes and bar back on the twenty year plus meter. The workers place the bar back on the meter because they knew it was a bar for the footnote of the print-out states so exhibit 4 (already a part of court file). Note that it states that a "pilfer proof bar" was placed on the meter and this can not relate to the present case of alleged tap for there was a plug that was placed on the meter (see Order page 4). The alleged "pipe" was lost and could not be found after it was removed Tr. 105-106. ALJ thought that it would not be "important" to have the alleged pipe Tr.201. Later respondent produces an item that has the pipe dope still wet in it to reflect that it had been changed. Just less than two weeks prior to the inspection by Mr. Alday the respondent wanted to change the meter at the home of complainant exhibit 5. Someone made the decision the the meter could be bad and then someone overruled this decision. The ALJ agreed to test meter Tr. 204-205 The meter was not tested.

The ALJ states Mr. Alday was the foundation witness Tr. 187 and Mr. Alday states that he would rely on the degree day analysis not the contemporaneous test . If the foundation witness commits perjury, then what about the rest of the case?. Mr. Alday does not fix the problem that he stated he came to fix; to get rid of the estimated billings. Alday took a reading March 15, 2001, the reading was rejected by the company Tr. 90. Exhibit # 6 shows that the reading was not considered by the respondent and that the is consumer fraud for the changed the reading to an incorrect reading just about one week later..

The reason for this change is because the respondent had created a problem for themselves for now the actual reading on the meter was lower than the estimated billings that were paid as billed. In the case of a tap on a system the opposite would be true. Now, respondent is trying to catch a fly ball in a high wind, so they give of all things a credit at the time they say complainant owes them (see exhibit 6 again).

Calculations are incorrect

Mr. Bulanda being qualified or not can back the calculations that was done by some "girl" Tr. 152. Mr. Bulanda states that the "girl" did the calculations and then states that he did the calculations Tr. 129. Mr. Bulanda can not be sure of the test results for he states he wished the test could have run longer Tr. 134. Nor does Mr. Bulanda know if the rate was picked up. In the cited case by respondent filed with the Brief On Exceptions filed by respondent, it states that the calculations was defended by a "special Investigator" this person as with the investigation of the tap came from the RPU Department not the Customer Service Department as Mr. Bulanda.. The AIJ in the case states that Mr. Bulanda said that the calculations show a drastic drop in late 1992. Mr. Bulanda commits perjury once again in this case, for he states that all of 1991 and 1992 are "normal" as for gas usage and the attorney aggress Tr. 144

Fraud or attempt at fraud

Exhibit 7 show that respondent has been paid for this debt and more for the charges have been removed. Note that the amount that was submitted was \$15,577.60 and they had no right to calm this as a bad debt as allowed under section 280©. Much can be said about this act of unabated greed. Moreover, respondent my in fact have been paid once for this alleged tape, for there was a lien on this home in question and the lien was against the pervious owner exhibit 8. Witness for respondent states that the full year of 1992 is "normal" as for gas usage and attorney for respondent agrees Tr. 144. Now respondent want to get paid again.

Conclusion

All three witnesses of respondent committed perjury and could not prove that the were qualified to made the statements to support the respondent's case. The bar that was in place was the same material as what respondent uses see exhibit 9. This case does not mirrors the approach taken by the cited case of respondent for they had a special department to make these decisions. At first the respondent stated the the alleged tap happen in 1988 exhibit 10 and then they changed it to 1992 Tr. 68.

Mr. Bulanda states that even the print-out is confusing Tr. 180 and if the print-out the base of the calculations then the out come of such calculations are in question even more when the person that did the calculations was referred to as some "girl".

Complainant now as for attorneys fees (exhibit 11 not all fees included) including fee for Mr. Asim presenting this case of \$4,125.00. Complainant further ask for expert witness

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fees (exhibit 12), fee for transcript of about \$460.00, \$15,000.00 for the billing of estimated billing based on the actions the previous owner of the home in question, time missed at work for this case (about \$225.00). and any other fees deemed by this court in this matter. Also, Complainant ask that Mr. McCarthy the attorney for the respondent be disciplined in so way because he was warned about what would happen to him if he was guilty of misrepresentation Tr.15. Mr. Carthy has done more than misrepresent, he was the conductor of the attempt at fraud and the conspiracy against this complainant and spouse. Moreover, the respondent as a company should be disciplined.

It should be noted that Ms Diehl and her husband are both ill exhibit #13. Ms Diehl has breast cancer and Mr. Asim has emphysema and the respondent should note their file that the gas is not to be turned off for it could be deadly. The safety of the home is also in question due the work done on home by the workers that changed the gas main, for no shut-off valve was placed on the pipe and if there is a problem with the pipe is can not be turned off exhibit 14 a diagram of meter and inlet pipe.

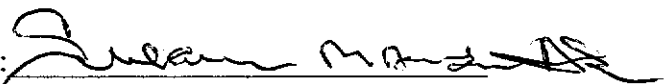
The documents attached to the Brief On Exceptions filed by complainant should have been considered in the case the respondent never challenged the documents the just denied any guilt. After the act of *de gratia* or of *degratia speciali gratia* in this case toward the respondent this minor matter seems trivial. Exhibit 15 are some billings after the alleged tap and it shows that the MRDS or therms used are less that numbers in the initial period of alleged drop "late 1992." Simply put, there was not a tap on complainant's meter at the time of her stay and needless to say she could not have benefited.

EVEN RESPONDENT IS AGAINST THIS DECISION (SEE BRIEF ON
EXCEPTION BY RESPONDENT). THEY AGREE THAT THE TEST SHOULD NOT
HAVE BEEN CONSIDERED IN AS FOR THE AMOUNT OWED IN AN ALLEGED
TAP.

This decision has turned this case from Diehl vs People's Energy to Diehl vs ICC,
for this is where the number are coming from not the respondent. There should be not
amount paid to respondent and the aforementioned damages be granted

DATED: APRIL 23, 2003

Respectfully submitted,

BY: 
Sulaiman Mansur Asim

650 North Central Avenue
Chicago, IL 60644
(773) 626-6080

VERIFICATION

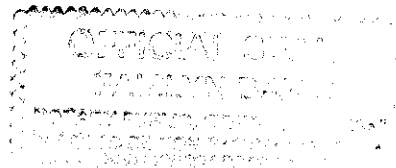
I, Sulaiman Mansur Asim, being first duly sworn upon oath, depose and say that I have read the above and foregoing request for Rehearing by me subscribed and know the contents thereof; and that said contents are true in substance and in fact.

Sulaiman Mansur Asim
Sulaiman Mansur Asim

SUBSCRIBED AND SWORN
Before me this 23rd day
Of April 2003

Fairlyn Davis
Notary Public in and for the
County of Cook, Illinois

My commission Expires: 9-30-03



STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

VIRGINIA W. DIEHL)

Complainant)

vs.)

DOCKET # 01-0453)

THE PEOPLES GAS LIGHT AND)
COKE COMPANY)

Respondent

NOTICE OF FILING

TO: People's Energy
Bryant J. McCarthy
130 East Randolph Street
23rd floor
Chicago, Il 60601

Illinois Commerce Commission
Chief Clerk-Elizabeth A. Rolando
527 East Capital Avenue
Springfield, Il 62701

PLEASE TAKE NOTICE that on April 23, 2003, there was served, Virginia Diehl's request for Rehearing, in the above captioned case, on the above listed parties, a copy of which is attached hereto and presented herewith.

CERTIFICATE OF SERVICE

I, Sulaiman Mansur Asim, certify that on April 23, 2003, I served the foregoing notice of filing, together with the documents referred to therein on the parties listed above, by mailing said documents next day mail at Oak Park, Il, Post Office

BY:


Sulaiman Mansur Asim

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